

Date: February 23, 2011
W.I.: 1253
Referred by: BATA Oversight

ABSTRACT

BATA Resolution No. 97

This resolution authorizes issuing toll bridge revenue bonds in 2011 and restates and updates bond-related authorizations.

Discussion of this action is contained in the Executive Director's accompanying memorandum dated February 2, 2011.

Date: February 23, 2011
W.I.: 1253
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Re: Authorization of Issuance of Bay Area Toll Authority San Francisco Bay Area Toll Bridge Revenue Bonds

BAY AREA TOLL AUTHORITY
RESOLUTION NO. 97

WHEREAS, the Bay Area Toll Authority (the “Authority”) has outstanding \$5,595,125,000 principal amount of toll bridge revenue bonds (the “Senior Bonds”) issued pursuant to its Master Indenture dated as of May 1, 2001, as amended and supplemented (the “Master Indenture”) and has outstanding \$2,385,000,000 principal amount of toll bridge revenue bonds (the “Subordinate Bonds”) issued pursuant to its Subordinate Indenture dated as of November 1, 2010, as amended and supplemented (the “Subordinate Indenture”); and

WHEREAS, the Authority’s has decided to authorize the issuance of up to an additional \$1,000,000,000 principal amount of toll bridge revenue bonds (the “Additional Bonds”) to provide funding for the seismic retrofit program and other Authority projects, and the Authority has decided to authorize the sale and delivery of such Additional Bonds in one or more series from time to time in 2011 as additional Senior Bonds or additional Subordinate Bonds or as further subordinated bonds (the “Second Subordinate Bonds”) under a new indenture (the “Second Subordinate Indenture”) or a combination thereof, bearing either taxable or tax-exempt fixed interest rates or variable interest rates or a combination thereof; and

WHEREAS, the Authority has a Reimbursement Agreement dated as of September 28, 2010 (the “Reimbursement Agreement”) under which banks provide liquidity and credit support for the Authority’s variable rate demand Senior Bonds, and it may be in the best interests of the Authority to amend, restructure, replace, or terminate the Reimbursement Agreement;

WHEREAS, it may be in the best interests of the Authority to refund outstanding Senior Bonds; and

WHEREAS, it may be in the best interests of the Authority to convert outstanding variable rate demand Senior Bonds to another interest rate mode or modes; and

WHEREAS, the Authority has outstanding interest rate swaps in the aggregate notional amount of \$2,265,700,000 and it may be in the best interests of the Authority to amend, restructure, replace, or terminate any or all of the related interest rate swap agreements; now, therefore, be it

RESOLVED, that the Authority finds that the foregoing recitals are true and correct; and be it further

RESOLVED, that the Authority hereby authorizes the issuance, from time to time, of Additional Bonds as Senior Bonds or Subordinate Bonds or Second Subordinate Bonds or a combination thereof in one or more series and in one or more public offerings or private placements, in accordance with the Master Indenture or the Subordinate Indenture or the Second Subordinate Indenture, respectively, in an aggregate principal amount not to exceed \$1,000,000,000 to:

- (1) fund the seismic retrofit program and other Authority projects and to reimburse the Authority for its prior payment of such costs;
- (2) increase the amount in the reserve fund under the Master Indenture as necessary to meet the requirements of the Master Indenture and fund any reserve fund contribution under the Subordinate Indenture or the Second Subordinate Indenture;
- (3) pay the costs of issuance of the Additional Bonds, provided that the aggregate costs of issuance of the Additional Bonds (including the underwriters' discount but excluding the costs of any reserve fund surety bonds and any original issue discount) shall not exceed 1% of the aggregate principal amount of tax-exempt Additional Bonds issued and 2% of the aggregate principal amount of taxable Additional Bonds issued; and
- (4) pay any interest rate swap-related or other costs, fees or payments as are determined to be necessary or desirable by the Executive Director or the Chief Financial Officer in carrying out the purposes of this Resolution;

provided, however, that the aggregate principal amount of Senior Bonds issued pursuant to the foregoing authorization may not exceed \$750,000,000 and the Additional Bonds authorized hereby shall not be issued after December 31, 2011 without further authorization by the Authority; and be it further

RESOLVED, that subject to the foregoing, the series designations, dates, maturity date or dates (not to exceed 40 years from their date of issuance), interest rate or rates, terms of redemption, and other terms of each series of Additional Bonds shall be as provided in one or more supplemental

indentures to the Master Indenture, the Subordinate Indenture or the Second Subordinate Indenture providing for the issuance of such series of Additional Bonds as finally executed by the Executive Director or the Chief Financial Officer, provided that the true interest cost for fixed interest rate Additional Bonds may not exceed 6.75% per annum for tax-exempt bonds and 8.8% for taxable bonds and the interest rate for variable interest rate Additional Bonds may not exceed 12% per annum except with respect to any variable interest rate Additional Bonds that are held pursuant to a letter of credit, line of credit, standby purchase agreement, revolving credit agreement or other credit arrangement pursuant to which credit or liquidity support is provided for Additional Bonds (a “Support Agreement”), for which the interest rate or rates shall not exceed 15% per annum; and be it further

RESOLVED, that the method of determining the interest rate or rates on variable interest rate Additional Bonds, the terms of tender and purchase, and the other terms of variable interest rate Additional Bonds shall be as specified in a supplemental indenture to the Authority’s Master Indenture, Subordinate Indenture or Second Subordinate Indenture in substantially the form of a supplemental indenture executed by the Authority in the past pursuant to the Authority’s Master Indenture, with such additions thereto and changes therein (including additional put bond or other structures, with or without liquidity or credit support) as the Executive Director or Chief Financial Officer executing the same, with the advice of General Counsel to the Authority and Orrick, Herrington & Sutcliffe LLP, bond counsel to the Authority (“Bond Counsel”), may approve (approval to be conclusively evidenced by the execution and delivery of the supplemental indenture), and the Authority hereby authorizes the Executive Director or the Chief Financial Officer to purchase, from time to time, for and on behalf of the Authority, any of the variable interest rate Additional Bonds at a price equal to the principal amount of such Additional Bonds (plus accrued interest) on a date or dates selected by the Authority if such officer determines that it is in the best interests of the Authority to so purchase such Additional Bonds; and be it further

RESOLVED, that the Authority hereby determines pursuant to Section 3.01(B)(1) of the Master Indenture (terms used below in this clause that are defined in the Master Indenture have the meaning herein assigned therein), based on the calculations in Attachment A to this Resolution, that the ratio of (A) projected Net Revenue for each of the next three Fiscal Years to (B) Maximum Annual Debt Service on the Bonds (and Parity Obligations) and Additional Bonds in the aggregate

principal amount of \$750,000,000, will not be less than 1.50:1, and the Authority hereby directs an Authorized Representative (as defined in the Master Indenture) to update this calculation as of the actual date of sale of the Additional Bonds to reflect the actual amount of Additional Bonds being sold and to proceed with the issuance pursuant to the Master Indenture only if the ratio of (A) projected Net Revenue for each of the next three Fiscal Years to (B) Maximum Annual Debt Service on the Bonds (and Parity Obligations) and the actual amount of Additional Bonds being sold is not less than 1.50:1 as of said date of sale; and be it further

RESOLVED, that in the event the Executive Director or the Chief Financial Officer determines that a portion of the Additional Bonds should be Second Subordinate Bonds issued pursuant to the Second Subordinate Indenture, the Authority hereby authorizes the issuance of such Additional Bonds in accordance with the Second Subordinate Indenture, which shall be in substantially the form of the Subordinate Indenture with such additions thereto or changes therein, including reduced coverage requirements and lower rate covenants, as the Executive Director or the Chief Financial Officer executing the same, with the advice of General Counsel to the Authority and Bond Counsel, may require or approve, the approval of such additions or changes to be conclusively evidenced by the execution and delivery of the Second Subordinate Indenture, and each such officer be and hereby is authorized to select a trustee to serve as trustee under the Second Subordinate Indenture; and be it further

RESOLVED, that the Authority hereby authorizes executing one or more Support Agreements for variable rate Additional Bonds in substantially the form of the Authority's Reimbursement Agreement, with such additions thereto or changes therein as the Executive Director or the Chief Financial Officer executing the same, with the advice of General Counsel to the Authority and Bond Counsel, may require or approve (the approval of such additions or changes to be conclusively evidenced by the execution and delivery of each Support Agreement);

RESOLVED, that the Authority hereby authorizes each of the Executive Director and the Chief Financial Officer to amend, restructure, replace, or terminate the Authority's Reimbursement Agreement; and be it further

RESOLVED, that the Authority authorizes refunding any variable rate Senior Bonds and any fixed interest rate Senior Bonds with fixed interest rate or variable interest rate Senior Bonds, Subordinate Bonds or Second Subordinate Bonds or a combination thereof, provided that: (1) the

net present value economic benefit threshold of 3% in Resolution No. 51 shall apply to such refundings unless the Executive Director and the Chief Financial Officer determine (with the advice of the Authority's financial advisor) that it is in the best interests of the Authority to proceed with one or more refundings with a lower threshold to achieve other Authority objectives such as changes in covenants, redemption or conversion provisions or in the Authority's debt service profile; (2) the principal amount of Additional Bonds authorized in this Resolution is hereby increased by the aggregate principal amount of such refunding bonds that the Executive Director and the Chief Financial Officer approve, provided that the aggregate principal amount of such refunding bonds may not exceed the hereinabove stated outstanding principal amount of the Senior Bonds plus the amount of any redemption premium and the expenses and interest described in Section 3.01 of the Master Indenture or the Subordinate Indenture; and be it further

RESOLVED, that the Authority hereby authorizes each Authorized Representative (as defined in the Master Indenture) to convert any variable rate Senior Bonds to another interest rate mode or mode, including new interest rate modes not currently found in the Master Indenture;

RESOLVED, that, because the Authority's cost of funds to pay interest on the outstanding Senior Bonds and the Additional Bonds will be affected by changes in interest rates, each of the Executive Director and the Chief Financial Officer is hereby authorized, for and on behalf of the Authority, to select counterparties for and prepare, enter into, and perform contracts and arrangements permitted by California Government Code Sections 5920 through 5923 in connection with or incidental to the issuance or carrying of the outstanding Senior Bonds and the Additional Bonds, and the Authority hereby finds and determines that such contracts and arrangements are designed to reduce the amount or duration of payment, currency, rate, spread, or similar risk or result in a lower cost of borrowing when used in combination with the issuance or remarketing of the Senior Bonds and the Additional Bonds or to enhance the relationship between risk and return with respect to the investment or program of investment in connection with, or incidental to, the contract or arrangement which is to be entered into, and each of the Executive Director and the Chief Financial Officer is hereby authorized:

- (1) to amend, restructure or terminate, including to replace or enter into one or more novations with respect to, existing swap agreements related to Senior Bonds (including amending each such agreement, for such consideration as such officer deems adequate,

- to provide each swap counterparty with an option to terminate the swap on 30 days' or less notice if that termination will not result in a termination payment being paid to or by the Authority);
- (2) to hedge the Authority's exposure to interest rate risk on all or any portion of the Additional Bonds issued bearing fixed interest rates or the outstanding fixed interest rate Senior Bonds or Subordinate Bonds by means of new interest rate swap agreements that obligate the Authority to make variable payments to swap counterparties, provided the resulting variable payment obligations of the Authority shall not exceed a contractual ceiling (which may be based on an index) approved by such officer;
 - (3) to hedge the Authority's exposure to interest rate risk on all or any portion of the Additional Bonds issued bearing variable interest rates by means of new interest rate swap agreements that obligate the Authority to make fixed payments to swap counterparties, provided the resulting fixed payment obligations of the Authority shall not exceed 6.75% per annum if the related Additional Bonds bear tax-exempt interest rates and 8.8% per annum if the related Additional Bonds bear taxable interest rates;
 - (4) provided, that all such contracts and arrangements referred to in (1) through (3) above shall be entered into in accordance with the Authority's Debt Policy, as amended from time to time, after giving due consideration to the creditworthiness of the counterparties, and in accordance with previously-utilized forms of swap documentation as guidelines for documentation, with such changes in swap documentation as shall be approved by such officer (and the amendment described in the parenthetical phrase in (1) above is hereby determined to be in accordance with the Authority's Debt Policy);
 - (5) provided further, that each such contract or arrangement with respect to a Senior Bond heretofore or hereafter issued shall be a Qualified Swap Agreement (as defined in the Master Indenture) if the Authority has received a Rating Confirmation (as defined in the Master Indenture) from each Rating Agency (as defined in the Master Indenture) with respect thereto and if such officer determines, for and on behalf of the Authority, that (a) the notional amount of the contract or arrangement does not exceed the

principal amount of the related series of Senior Bonds or portion thereof as applicable (and in making such a determination, such officer is hereby directed to calculate notional amounts as net amounts by taking into account and giving effect to all contracts and arrangements referred to above and rounding amounts as necessary to establish that each such agreement is a Qualified Swap Agreement) and (b) the contract or arrangement is intended to place the Senior Bonds on the interest rate basis desired by the Authority, that payments (other than payments of fees and expenses and termination payments, which shall be Subordinate Obligations, as defined in the Master Indenture) thereunder shall be payable from Revenue (as defined in the Master Indenture) on a parity with the payment of Senior Bonds, and that the contract or arrangement is designed to reduce the amount or duration of payment, rate, spread, or similar risk or result in a lower cost of borrowing when used in combination with the issuance or conversion of Senior Bonds of the Authority;

- (6) provided further, that each such contract or arrangement with respect to a Subordinate Bond heretofore or hereafter issued shall be a Parity Obligation (under and as defined in the Subordinate Indenture) if such contract or arrangement is designated as a Parity Obligation in the certificate of the Authority required by Section 3.02(b) of the Subordinate Indenture; and be it further

RESOLVED, that the Authority hereby authorizes the Executive Director and the Chief Financial Officer, and each of them, to publish, post or disseminate (and deem final for purposes of Securities and Exchange Commission Rule 15c2-12) the Authority's existing Information Statement, with such changes, amendment and supplements therein as are approved by either of them, as the Authority's reoffering circular or official statement and to authorize the distribution of each such reoffering circular or official statement by underwriters and broker dealers; and be it further

RESOLVED, that the Authority hereby authorizes the Executive Director and the Chief Financial Officer, and each of them, to select the parties to and execute and deliver (and the Secretary is authorized to countersign, if necessary) each of the documents that is necessary or appropriate to effect each of the transactions contemplated hereby, including, without limitation, supplemental indentures, official statements, reoffering circulars, remarketing agreements, purchase

contracts, and continuing disclosure agreements (collectively called the “Bond Documents”) in substantially the forms approved hereby or executed by the Authority in the past, as applicable, with such additions thereto or changes therein or in such other form as the officer executing the same, with the advice of General Counsel to the Authority and Bond Counsel, may require or approve, the approval of such additions or changes or the approval of such other form to be conclusively evidenced by the execution and delivery of each Bond Document; and be it further

RESOLVED, that the Chair of the Authority, the Vice Chair of the Authority, the Executive Director, the Chief Financial Officer, and other appropriate officers of the Authority, be and they are hereby authorized and directed, jointly and severally, for and in the name and on behalf of the Authority, to execute and deliver any and all certificates, documents, amendments, instructions, orders, representations and requests, and to do any and all things and take any and all actions that may be necessary or advisable, in their discretion to effectuate the actions that the Authority has approved in this Resolution; and be it further

RESOLVED, that this Resolution shall take effect from and after its adoption.

BAY AREA TOLL AUTHORITY

Adrienne Tissier, Chair

The above resolution was entered into by the Bay Area Toll Authority at a regular meeting of the Authority held in Oakland, California, on February 23, 2011